

EXHIBIT A

(9 PAGES)

SUPERIOR COURT
STATE OF CALIFORNIA
COURTHOUSE
COUNTY CIVIC CENTER
VISALIA, CALIFORNIA

AGREEMENT NO.

DEPARTMENT

BID NO.

PURCHASING AGENT CONTRACT **ARTICLES OF AGREEMENT**

THIS AGREEMENT made and entered into this _____ day of _____, by and between the SUPERIOR COURT, COUNTY OF TULARE, hereinafter called the COURT, and

hereinafter called the CONTRACTOR.

WITNESSETH: That the Contractor and COURT for the consideration hereinafter named agree as follows:

ARTICLE (1) THE WORK: The Contractor agrees to furnish at his own cost and expense, all tools, equipment, apparatus, labor, materials, (excepting COURT supplied materials) mechanical workmanship, transportation and services necessary to perform and complete, in a good and workmanlike manner the following work:

(JOB DESCRIPTION)

GENERAL: Work to be completed shall include all modifications to existing space as outlined in the document entitled:

SUPERIOR COURT SERVER ROOM
BASEMENT OF COURTHOUSE
(OLD ELECTIONS OFFICE)
221 SOUTH MOONEY BLVD.
VISALIA, CA 93291

Plans and specifications can be obtained at the Information Technology division of the Superior Court, 221 South Mooney Blvd, Suite 106, Visalia, California. The document fee is \$10.00.

Work will include the building steel framed partition walls into existing basement area, drop in ceiling and light fixtures, reworking fire suppression sprinklers and HVAC to new ceiling height, and electrical work as specified in plans. Bids must include all labor and materials for the scope of work outlined by the aforementioned plans, as well as clean-up work.

RESPONSIBILITIES OF THE CONTRACTOR: It shall be the responsibility of the Contractor to establish a knowledge of the general area, and the specific location of the various sites where the work is to be performed. This, so as to familiarize himself with the following as applicable: worksite, ingress and egress thereto, location of adjacent buildings, structures, utilities, trees, plantings, obstructions, soil composition and the extent of the job. It shall be the responsibility of the Contractor to cope with all of the difficulties encountered concerning these eventualities, and all others which might effect the Contractor's ability to perform the work.

PROTECTION OF THE PROPERTY: The Contractor shall take all needed precautions to protect the property, both real and personal, of the County and private individuals and shall safeguard the passing public from harm, from any eventualities arising during the course of the work. He shall make certain that these safeguards are used for the above both during and after the hours of work.

WORKMANSHIP: All work shall be performed in a neat and workmanlike manner using the best recognized practices of the particular trade involved to properly complete the work required. The work shall proceed vigorously to completion, once it is started.

SPECIFICATIONS: Furnish all tools, equipment, apparatus, labor, materials, workmanship, transportation, and services necessary to perform and complete the:

All work under this Agreement shall be done in accordance with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and using the best practices of the profession/trade(s), and shall be completed to the satisfaction of the Tulare County _____ or his designee.

COSTS: The price for all services rendered under this agreement is to include all materials and all labor and shall cover all costs of the use of the usual machinery and tools required in the work and shall include all of the Contractor's costs of insurance for property damage and public liability protection, social security benefits, unemployment insurance for workers, any other benefits, costs or charges required to be forwarded by the Contractor.

ARTICLE (2) TIME FOR COMPLETION AND DAMAGES: The work to be performed under this Contract shall commence within _____ days after the date first above written, and shall be diligently pursued by the Contractor, and completed within _____ days thereafter. Should the Contractor be delayed in the erection or completion of the work by the neglect or default of the COURT, or by fire, strikes, lockouts, embargoes or earthquakes and which were not reasonable foreseeable at the time of execution of Contract Documents, then the time allowance herein fixed for the completion of the work shall be extended for a period equivalent to the time lost by reason of any or all of the causes aforesaid, but no allowance of additional time shall be made unless a request is presented to the COURT within five (5) days of such obstruction or delay, including holidays, specifying the cause thereof.

In addition, the Contractor and the COURT reserve the right to mutually agree in writing upon an extension of time for completion for causes other than enumerated above.

The granting of an extension of time by the COURT for performance by the Contractor shall not operate as a waiver or stop the COURT from claiming damage due to any other delays, prior to subsequent which were not approved by the COURT as herein provided. The COURT shall not be liable for any damages on account of any such delay.

Should the Contractor fail to complete this Contract, and the work provided herein within the time fixed for such completion as determined by the COURT, the Contractor shall become liable to the COURT for all loss and damage which the latter may suffer on account thereof, and IT IS HEREBY UNDERSTOOD AND AGREED that it is and will be difficult and impossible to ascertain and determine the actual damage with

the COURT will sustain in the event of, and by reason of, such delay. It is therefore agreed that said Contractor will pay to the COURT the sum of Twenty-Five (\$25.00) Dollars per day for each and every day of delay beyond the time herein prescribed in finishing the said work as liquidated damages, as herein provided, and in case the same is not paid, agrees that the said COURT may deduct the amount thereof from any money due or that may become due said Contractor under this Contract. This paragraph does not exclude the recovery of damages under other provisions of the Contract Documents.

ARTICLE (3) THE CONTRACT SUM: In consideration of the covenants, agreements, and promises on the part of the Contractor contained in this Agreement, and the strict and literal fulfillment of each and every such covenant, agreement, and promise and as compensation in full for the performance and diligent completion of the work specified in Article (1) hereof, the COURT agrees to pay and cause to be paid to the Contractor according to the following schedule:

CONTRACT AMOUNT (\$000.000)

It is mutually agreed that the COURT shall pay no more than a maximum of CONTRACT AMOUNT (\$00,000.00) for the performance of all work under this Contract.

The price to be paid said Contractor shall be paid in legally issued warrants drawn at the order of COURT on the appropriate fund or funds as required by law, subject to the delay attendant upon examination and approval of said orders by County officers in the manner required by law for the issuance of warrants. Upon completion of the work and its acceptance by the COURT, the Contractor may be paid ninety percent (90%) of the contract price. The final, if unencumbered, shall be due thirty-five (35) days after the filing of the Notice of Completion. County warrants will be issued with lag time as per standard County invoice payment procedures.

In lieu of the percent (10%) retainage, the Contractor may substitute securities as provided below.

Security Substitutions for Moneys Withheld to Insure Contractor's Performance:

The Contractor, at his request and expense, will be permitted to substitute equivalent securities for any moneys withheld to insure performance as follows, and in accordance with Section 4590 Chapter 13 of Division 5 of Title 1 of California Government Code. The term satisfactory completion of the contract in Section 4590 of the California Government Code shall mean the time the COURT has issued written final acceptance of the work and filed a Notice of Completion as required by law.

At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the Contractor.

Securities eligible for investment under this section shall include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the public agency.

The Contractor shall be the beneficial COURT of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to these conditions shall contain as a minimum, the following provisions:

- a. The amount and type of securities to be deposited;
- b. The terms and conditions of conversion to cash in case of the default of the Contractor;
- c. The termination of the escrow upon completion of the Contract; and

d. The Contractor shall pay all costs and fees associated with the escrow or deposit.

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ARTICLE (4) WITHHOLDING: Payment of the contract sum shall be made in the manner and upon the conditions set forth in Article (3) hereinabove, subject to the following conditions, which are in addition to those contained elsewhere in the Contract:

- (a) The COURT may withhold payments to such extent as may be necessary to protect the COURT from loss on account of:
 - (1) Defective work or material not remedied or replaced.
 - (2) The filing of claims or notices to withhold, or reasonable evidence indicating probable filing of such claims or notices.
 - (3) Failure of the Contractor to make payments properly to sub-contractors, or for materials or labor.
 - (4) A reasonable doubt that the Contract can be completed for the balance then unpaid.
 - (5) Damage to another Contractor.

When the above grounds for withholding are removed, payment shall be made for amounts withheld because of them.

ARTICLE (5) THE CONTRACT DOCUMENTS: The complete Contract between the COURT and the Contractor shall consist of the following Contract Documents in existence: The Solicitation for Bids; the Bonds; these articles of Agreement; Plans and Specifications; the Plot Plan; and all addenda, bulletins and modifications incorporated in those documents before their execution. The work called for in one document and not expressly mentioned in the other is to be performed the same as if mentioned in all contract documents.

ARTICLE (6) ARTICLES OF AGREEMENT CONTROLLING: It is hereby mutually agreed and understood that in any particulars and provisions or parts thereof wherein any of the other Contract Documents are contrary to these Articles of Agreement, the provisions of these Articles of Agreement shall control and supersede such provisions of any other contract documents.

ARTICLE (7) CHANGE ORDERS: No change shall be made except on Change Order duly issued and unless in pursuance of a written order from the COURT stating that the extra work or change is authorized, and no claim of an addition to the contract sum shall be valid unless so ordered, approved and executed in the form of a supplemental written agreement or written Change Order.

The COURT, at any time during the progress of the work, shall have the right to order alterations in, additions to, or deviations or omissions from, the work contemplated by this Contract, and the same shall in no way make void the Contract. If any such changes involve an increase or decrease in the contract amount, the Change Order shall state the amount to be added to or deducted from the Contract amount, and shall also state the additional time, if any, needed for the performance of the work; provided that any addition shall be determined upon the basis of an estimate and acceptance of a lump sum; and provided further that, where additions to the Contract amount cannot feasibly be determined upon such estimate and acceptance basis, such additions shall be upon the basis of actual cost of labor and material, plus fifteen percent (15%) to cover the Contractor's profit and overhead expenses for the extra work.

ARTICLE (8) PROSECUTION OF WORK: If the Contractor should neglect to prosecute the work efficiently, properly and diligently or fail to perform any provisions of this Contract, the COURT, after one day written notice to the Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to the Contractor.

The COURT shall have the power and authority to order any mechanic or laborer from the worksite upon finding that such mechanic or laborer is not endeavoring in good faith to comply with the plans and specifications, or is so careless or incompetent as to jeopardize the proper prosecution of the work, and such

mechanic or laborer shall not thereafter be reemployed on the work, except with the express permission of the COURT.

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ARTICLE (9) TERMINATION BY THE COURT: If the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if the Contractor or any of his subcontractors are violating any of the provisions of the Contract, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the COURT, then the COURT may, and providing that sufficient cause exists to justify such action, serve written notice upon the Contractor and his surety of its intention to terminate the Contract; such notice to contain the reasons for such intention to terminate the Contract, and unless within five (5) days after the serving of such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, the Contract shall, upon the expiration of said five (5) days, cease and terminate.

In the event of any such termination, the COURT shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the contract, provided, however, that the surety within ten (10) days after the serving upon it of notice of termination does not give the COURT written notice of its intention to take over and perform the Contract or does not commence performance thereof, within the ten (10) days stated above from the date of the serving of such notice, the COURT may take over the work and prosecute the same to completion by Contract or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and his surety shall be liable to the COURT for any excess cost occasioned the COURT thereby, and in such event the COURT may without liability for so doing, take possession and utilize in completing the work, such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work and necessary therefor. In such case the Contractor shall not be entitled to receive any further payment until the work is finished.

If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such expense shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the COURT.

ARTICLE (10) ASSIGNMENT: Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the pervious written consent of the COURT.

ARTICLE (11) LOSS OR DAMAGE: The COURT or its authorized representative shall not in any way or manner be answerable or suffer loss, damage, or expense or liability for any loss or damage that may happen to said work, or part thereof, or in or about the same during its execution and before acceptance and the said Contractor shall assume all liabilities of every kind or nature arising from said work, either by accident, negligence, theft, vandalism, or any causes whatever; and shall hold the COURT and its authorized representatives harmless from all liability of every kind and nature arising from accident, negligence or any cause whatever.

ARTICLE (12) INDEMNIFICATION: Contractor shall hold harmless, defend and indemnify County, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including County property, arising out of the acts or omissions of Contractor or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against County by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, the cost of any penalty or sanction imposed by any agency with regulatory authority over the activities carried out by CONTRACTOR, and any claims made against COUNTY alleging civil rights violations by CONTRACTOR under Government Code sections 12920 et Seq. (California Fair Employment and Housing

Act). CONTRACTOR specifically agrees to hold harmless and indemnify COUNTY for any and all claims arising out of any injury, disability, or death of CONTRACTOR'S employees or agents. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

ARTICLE (13) INSURANCE: Prior to approval of this Agreement by County, Contractor shall file with the Purchasing Department of Tulare County evidence of its compliance with the requirements of Labor Code Section 3700 relating to worker's compensation benefits and policies of insurance, or certificates thereof, issued by companies licensed to transact business in the State of California, providing comprehensive general liability insurance with combined single limit of liability coverage of at least ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) per occurrence covering all of its activities under this Agreement. Such insurance policy shall name the County, its officers, agents and employees as additional insureds. The insurance coverage shall be issued at the expense of, and maintained by Contractor during the entire term of this Agreement.

ARTICLE (14) INDEPENDENT CONTRACTOR: This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of COUNTY. CONTRACTOR agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees, agents or officers of COUNTY. CONTRACTOR shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over CONTRACTOR as to how the services will be performed. As CONTRACTOR is not COUNTY'S employee, CONTRACTOR is responsible for paying all required state and federal taxes. In particular, COUNTY will not:

- a. Withhold FICA (Social Security) from CONTRACTOR'S payments.
- b. Make state or federal unemployment insurance contributions on CONTRACTOR'S behalf.
- c. Withhold state or federal income tax from payments to CONTRACTOR.
- d. Make disability insurance contributions on behalf of CONTRACTOR.
- e. Obtain unemployment compensation insurance on behalf of CONTRACTOR.

Notwithstanding this independent contractor relationship, COUNTY, through the Purchasing Agent, shall have the right to designate the sites at which services are to be performed, and to monitor and evaluate the performance of CONTRACTOR to assure compliance with this Agreement.

ARTICLE (15) NON-RESPONSIBILITY OF THE COURT: Indebtedness incurred for any cause in connection with this work must be paid by the Contractor, and the COURT is hereby relieved at all times from any indebtedness or claim other than the contract sum.

ARTICLE (16) HOURS OF WORK: Eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and it is expressly stipulated that no workmen employed at any time by the Contractor, or by subcontractor under this Contract, upon the work, shall be required or permitted to work thereon more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except as provided in Sections 1810 to 1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein as if fully set out; and it is further expressly stipulated that for each and every violation of said last named stipulation, said Contractor shall forfeit, as a penalty to the said COURT, Twenty-five Dollars (\$25.00) for each workman employed by the Contractor in the execution of this Contract, or by any subcontractor under this Contract, for each calendar day during which said workman is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of said sections of the Labor Code.

The Contractor and each subcontractor shall also keep an accurate record showing the names and actual hours worked each calendar day and each calendar week by each worker employed by him in connection

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with the work contemplated by this Agreement, which record shall be open at all reasonable hours to the inspection of the COURT or its officers or agents, and to the Division of Labor Law Enforcement of the Department of Industrial Relations, its deputies and agents.

Notwithstanding the above stipulations, pursuant to Section 1815 of the Labor Code, work performed by employees of Contractors in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon the project upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1 1/2) times the basic rate of pay.

ARTICLE (17) WAGE RATES: In accordance with the requirements of Section 1770 of the Labor Code, the Director of the Department of Industrial Relations, has determined the general prevailing rate of per diem wages for workmen required to perform the subject work. A copy of such prevailing wage rate is on file with the Clerk of the Tulare County Board of Supervisors and is available for inspection.

It shall be mandatory upon the Contractor to whom the Contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen, and mechanics employed by them in the execution of the Contract.

It is hereby further agreed that the Contractor shall forfeit to the COURT, as a penalty, Twenty-five Dollars (\$25.00) for each laborer, workman or mechanic employed for each calendar day or portion thereof, who is paid less than the said stipulated rates for any work done under the Contract, by him or by any subcontractor under him. The difference between said stipulated rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than said stipulated rate shall be paid by the Contractor. The Contractor, and each subcontractor, shall keep or cause to be kept an accurate record showing the names and occupations of all laborers, workmen and mechanics employed in connection with the execution of this Contract or any subcontractors thereunder, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the COURT or its officers and agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Relations, its deputies and agents.

In case it becomes necessary for the Contractor or any subcontractor to employ on the work under his Contract any person in a trade or occupation (except executive, supervisory, administrative, clerical or other nonmanual workers as such) for which no minimum wage rate is hereby specified, the Contractor shall immediately notify the COURT who will promptly thereafter determine the prevailing rate for such additional trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

ARTICLE (18) EMPLOYMENT OF APPRENTICES: Pursuant to Section 1775 of the Labor Code of the State of California, nothing in this Agreement shall prevent the employment of properly registered apprentices upon public works.

Every such apprentice shall be paid the standard wage paid to apprentices under the regulation of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered.

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he

is training.

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ARTICLE (19) CONVICT MADE MATERIALS: The Contractor agrees that no materials manufactured or produced in a penal or correctional institution shall be incorporated under this Contract.

ARTICLE (20) ROYALTIES AND PATENTS: The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the COURT harmless from loss on account thereof, except that the COURT shall be responsible for all such loss when a particular process or the product of a particular manufacturer of manufacturers is specified, but if the Contractor has information that the process or article specified is an infringement of a patent he shall be responsible for such loss unless he promptly gives such information to the COURT.

ARTICLE (21) SURVEYS, PERMITS AND REGULATIONS: The COURT shall furnish all necessary existing surveys unless otherwise specified. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the COURT, unless otherwise specified.

ARTICLE (22) NON-DISCRIMINATION IN EMPLOYMENT: Federal and State Laws prohibit discrimination in employment. The California Fair Employment Practices Act (Labor Code Section 1410 to 1433) prohibits discrimination in employment on the basis of race, religion, color, sex, physical handicap, medical condition, marital status, age, national origin or ancestry, and applies to all employers, employment agencies and labor organizations.

Title VII of the Federal 1964 Civil Rights Act (42 U.S.C. Section 2000e - 2000e -17) prohibits employment discrimination on the basis, of race, color, sex, religion or national origin, and applies to all employers that employ at least 15 workers during each working day in each of 20 or more calendar weeks in the current or preceding year.

In addition to these two laws of general application, there are other Federal and State laws that prohibit employment discrimination in particular cases.

The County of Tulare is an Affirmative Action Employer and expects all of its contractors and suppliers to familiarize themselves with, and comply with, all applicable laws relating to employment discrimination.

ARTICLE (23) NON-FUNDING CLAUSE: Funds provided for service under the terms of this Agreement are contingent on availability of public funds. Should sufficient funds not be allocated during those terms, this Agreement may be modified or terminated at any time by the County upon thirty (30) day notice. Notice shall be fully given in writing or through service in person or by first class mail.

ARTICLE (24) BONDS: Before commencing any work under the agreement, Contractor shall file bonds with the COURT, when required below, which shall be in the amount and for the purposes specified. They shall be surety bonds and shall be issued by corporations only and legally licensed to transact business in the State of California. They shall be maintained by the Contractor at his expense during the entire term of the contract.

PERFORMANCE AND PAYMENT BONDS: A Performance Bond shall be in the amount of one hundred per cent (100%) of the contract price, and a Payment Bond for fifty per cent (50%) of the value of the project will be required. They shall guarantee the faithful performance of the contractor, and shall insure the COURT during the life of the contract and for the term of one (1) year from date

of acceptance of the work against faulty or improper materials or workmanship that may be discovered during that time.

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IN WITNESS WHEREOF, This Agreement has been duly executed by the parties herein above named on the day and year first above written.

SUPERIOR COURT, COUNTY OF TULARE:

BY:
PURCHASING AGENT

DATE:

CONTRACTOR:

BY:

TITLE:

DATE:

CONTRACTORS LICENSE NUMBER:

CONTRACTORS LICENSE CLASSIFICATION:

**CERTIFICATION CONCERNING WORKMEN'S
COMPENSATION INSURANCE**

STATE OF CALIFORNIA)
) ss.
TULARE SUPERIOR COURT)

The undersigned is aware of the provisions of Section 3700 of the Labor Code of the State of California

which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and the undersigned will comply with such provisions before commencing the performance of work under this contract.

DATED: _____
(CONTRACTOR)